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SUBJECT: UPDATE ON ELECTION ISSUES: STILL NO ELECTORAL LAW

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11. Summary: Parliament has made some progress on passing electoral legislation but the overall process remains excruciatingly slow. While a law governing the supervisory body was finally passed on December 6, the review of the legislation on parliamentary elections, begun last week, has made only modest progress. Many Members of Parliament seem to have little enthusiasm for the process - a number of opposition parties have been boycotting the discussions and even the ruling Fretilin party MPs did not appear in sufficient numbers late last week for a quorum. While the UN is significantly ramping up its election personnel, and reports to have a "critical mass" of staff ready to go, concerns remain regarding the timeline for effective election administration. In addition to the continued delays in passing the necessary legislation, there are concerns that the GOET is not being proactive on key logistics preparation. End summary.

Law on electoral supervisory body passed

12. On December 6 Parliament passed a law governing the supervisory body, the National Election Commission (CNE). The law as passed included several demands of the opposition parties, including establishing the CNE as an autonomous institution, providing it a separate budget and staff, giving commissioners a six year mandate, and stipulating civil society involvement in appointment of members. Many opposition parties nevertheless refused to participate in the vote and instead held a press conference to declare their unhappiness with "political manipulation" of the law. Their central complaint is that the Technical Secretariat for Elections Administration (STAE), responsible for all election logistics, remains under the Ministry for State Administration. In addition, they registered unhappiness that their proposal for a new name for the supervisory body was not approved. Embassy sources report that President Xanana Gusmao is expected to sign the CNE law. (Presidential signature is required by the Constitution for laws to take effect.)

¶3. The UN electoral certification team, which arrived back in East Timor on December 10, has assessed the CNE law as imperfect but basically satisfactory, noting that the key issues will be the quality of the commissioners and staff and its assertiveness in overseeing STAE activities. UNMIT election officials do not expect any progress on the establishment of the CNE until January, at which point it should be able to instruct STAE regarding the registration process. STAE is in the meantime moving ahead with its organization and expects to have an office in every district within the month. UN Volunteers are already deploying to the districts to work with STAE on operations, logistics, voter education, and training. By the end of January, the plan is to have over 100 UN staff in country to work with both CNE and STAE, including several advisors in the CNE to assist with the issue of how it will relate to STAE.

But law on parliamentary elections moving slowly

¶4. Parliament began its article by article discussion last week of draft law #26, the Fretilin-drafted parliamentary elections law. Although public statements from Parliament have indicated a plan to complete the law by December 22, and former Prime Minister Mari Alkatiri has stated that he will push for completion by December 19, the current pace of progress makes either of these dates unlikely. Of 77 articles in the draft law, as of December 15 Parliament had addressed and decided on ¶16. The major opposition parties, who walked out of deliberations on the CNE law, have so far refused to rejoin discussions. Combined with an apparent lack of enthusiasm on the part of many other MPs, this contributed to the failure to reach a quorum to continue discussions planned for last Friday. One UN official also noted that many MPs, including Fretilin's, may want to hold onto their seats as long as possible (it is certain that some will not be continuing in the new smaller Parliament), and are thus not seized with any sense of urgency. The UNMIT mission nevertheless has continued to push for passage

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of the electoral law, and officials have expressed disappointment with the opposition's refusal to participate, describing them as politically immature in this regard.

¶5. Interestingly, despite the near absence of opposition MPs and Fretilin's strength in numbers to push through any law it pleases, the decisions thus far have included some concessions to opposition preferences. For example, the threshold for party representation in Parliament was set at three percent, rather than the five percent originally proposed by Fretilin, and the quota for women was increased from one in five to one in four. It is likely that Fretilin is making some compromises on issues that do not undercut their fundamental positions as insurance against a presidential veto. It is understood that President Xanana Gusmao has made it known that he will wield his veto power if he does not see the law as sufficiently fair and inclusive. UNMIT has also pressed Fretilin leadership on the need for electoral laws reflecting compromise and consensus.

Separate presidential and parliamentary elections, but schedule remains unknown

¶6. Although Alkatiri recently stated that both presidential and parliamentary elections should be held on the same day prior to May 20, Parliament has reportedly agreed to hold the elections on separate days, at least three weeks apart. (Fretilin leadership had earlier insisted that the elections be held on separate days, in contrast to earlier UN recommendations, so Alkatiri's recent position may not have been a passionately held one.) The actual scheduling of the two elections remains outstanding, however, with at least one advisor to Parliament still arguing that parliamentary elections should be held in August to more closely line up with the end of one term and the beginning of another. Meanwhile concerns are building regarding

the time needed for adequate preparation. For example, UN officials note the Government's lack of proactive measures to ensure that election materials are moved to isolated areas before the rainy season could complicate matters, especially given the unavailability of air transport.

¶7. Comment: While some overall progress is being made, it is clear that continued pressure is needed on several fronts. First, the slow progress of the parliamentary election law last week does not bode well. There should be continued pressure on national leadership to support completion of the electoral laws in a more timely manner. Second, the lack of broad participation in the deliberations is of concern. Opposition leadership and MPs need to be encouraged to opt back into the process, rather than ceding the field to Fretilin. At the same time, Fretilin leadership should continue to be reminded of the importance of substantive compromise. Third, there are indications of GOET foot dragging on key logistical issues. The UN should be supported in its message to the GOET that this is a Timorese election and that Timorese officials must be more proactive rather than expecting the UN to step in to save the day. End comment.

GRAY